



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

REDACTED VERSION*

Matter of: EG&G Team

File: B-259917.2

Date: July 5, 1995

James S. Hostetler, Esq., Robert S. Ryland, Esq., and Susan K. Fitch, Esq., Kirkland & Ellis, for the protester.

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James Y. Miyazawa, Esq., and Eric A. Lile, Esq., Department of the Navy, for the agency.

Sylvia Schatz, Esq., and John M. Melody, Esq., Office of General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that evaluation failed to adequately consider the relevance and quality of protester's prior experience, as required by the solicitation evaluation scheme, is denied where record shows agency gave due consideration to protester's prior experience.
2. Selection of the awardee's proposal on the basis of its overall technical superiority, notwithstanding approximately 20 percent higher price, was proper where agency determined technical superiority of awardee's proposal was worth the additional cost, and cost/technical tradeoff was consistent with the evaluation scheme.

*The decision issued on July 5, 1995, contained proprietary information and was subject to a General Accounting Office protective order. This version of the decision has been redacted or approved by the parties involved for public release.

DECISION

EG&G Team¹ protests the award of a contract to John J. McMullen & Associates, Inc. (JJMA) under request for proposals (RFP) No. N00600-94-R-1565, issued by the Department of the Navy for pollution prevention, environmental, and technical support services. EG&G argues that the agency improperly evaluated its proposal under the corporate experience factor, and failed to justify award to a higher-priced offeror.

We deny the protest.

The RFP, as amended, sought proposals for a cost-plus-fixed-fee contract for a base year with 4 option years. The RFP required offerors to submit separate technical and cost proposals. Evaluation of the technical proposals would be based on the following factors, in descending order of importance: (1) key personnel; (2) technical approach; (3) management plan (staffing plan); and (4) corporate experience. Proposals were to be scored on the basis of adjectival ratings of "outstanding," "better," "acceptable," "marginal," and "unacceptable." The cost proposals were to be evaluated for realism. Award was to be made to the responsible offeror whose proposal represented the best value to the government, cost and other factors considered. The RFP warned offerors that "an acceptable proposal with the lowest price may not be selected if award to a higher-priced proposal affords the government a greater overall benefit," and that "the government may elect to pay a price premium of up to approximately 35 percent to select a technically superior offer."

The Navy received two proposals--JJMA's and EG&G's--both of which were included in the competitive range. The Navy conducted three rounds of discussions, and requested and received best and final offers (BAFO) after each round. The Navy evaluated the final BAFOs as follows:

<u>TECHNICAL</u>	<u>EG&G</u>	<u>JJMA</u>
Key Personnel	better	better
Technical Approach	better	outstanding
Management Plan	better	outstanding
Corporate Experience	acceptable	outstanding

¹EG&G Team is a joint venture consisting of EG&G Washington Analytical Services; Center, Inc.; SRS Technologies; Basic Technology Corporation; and Radian Corporation.

Overall	better	outstanding
EVALUATED COST	\$39,859,958	\$49,298,556

In comparing EG&G's and JJMA's BAFOs, the contracting officer determined that, although JJMA's evaluated cost was approximately \$9.5 million higher than EG&G's, JJMA's BAFO represented the best value in light of its (1) highest overall technical rating, and (2) outstanding ratings under each technical factor, except the most important factor (key personnel), under which EG&G and JJMA received the same ratings. The Navy thus awarded the contract to JJMA. This protest followed.

CORPORATE EXPERIENCE

EG&G argues that the Navy's evaluators failed to adequately consider the extent to which EG&G's performance of the contracts listed in its proposal reflected the relevance and quality of its corporate experience in performing the work contemplated here, as required by the RFP. The protester specifically maintains that, although its proposal contained "exhaustive detail on specific deliverables and results achieved" on its prior contracts "and the relevancy of those deliverables to the current contract," the evaluation documentation failed to reflect a similar level of detail.

In reviewing protests against the propriety of an agency evaluation of proposals, we will not independently evaluate the proposals. ACM Env'tl. Servs., Inc., B-242064, Mar. 7, 1991, 91-1 CPD ¶ 255. Rather, as the determination of the proposals is primarily a matter of agency discretion, we will review an evaluation only to determine whether it was reasonable and consistent with the evaluation criteria. Columbia Research Corp., B-247073; B-247073.2, Apr. 23, 1992, 92-1 CPD ¶ 385.

The evaluation of EG&G's corporate experience was adequately documented. Specifically, in reviewing the 22 prior and current contracts listed in EG&G's proposal, the evaluators stated in the consensus report that EG&G's proposal showed that the firm "has provided support similar [to the current RFP] requirements in the following areas: HAZMAT Program planning, ODS initiatives, waste minimization, PRIME, pollution prevention studies, and in-depth packing research and analysis." In addition, the evaluators observed that EG&G's proposal provided "a good summary of these efforts" and correlated "past contract efforts and relevancy to [statement of work] areas[,] which showed that EG&G "delivered high quality products and measurable results on time and within budget." The evaluators' references to EG&G's performance on specific types of services similar to those required here and their review of EG&G's on-time delivery of support products clearly shows that the quality and relevance of EG&G's experience were considered in the evaluation of its proposal under the corporate experience factor. While the evaluation record does not detail how every single element of EG&G's

proposal was viewed under the corporate experience factor, this level of detail in the evaluation was not required. Columbia Research Corp., supra. We conclude that this aspect of the evaluation was unobjectionable.

COST/TECHNICAL TRADEOFF

EG&G raises numerous challenges to the cost/technical tradeoff. It argues, for example, that the contracting officer has not adequately documented her determination that the benefits of JJMA's higher-rated proposal warranted the \$9.5 million higher cost, given that the technical factors and cost were to be accorded equal weight.

Cost/technical tradeoffs made in selecting an awardee under a best value evaluation scheme are subject only to the tests of rationality and consistency with the established evaluation factors. Litton Indus., Inc., B-236720, Dec. 26, 1989, 89-2 CPD ¶ 595. We find that the tradeoff here was proper; EG&G's arguments are without merit.

Documentation

First, although the RFP did not identify the specific weighing of the cost and technical factors, as indicated, it did provide that the "[g]overnment may elect to pay a price premium of up to approximately 35 percent to select a technically superior offer." This provision clearly put offerors on notice that the government might pay a premium for technical superiority.

Second, we find that the tradeoff is adequately documented. The record shows that in making the award decision the contracting officer found that, although the firms received the same rating of better under the most important key personnel factor, JJMA's ratings of outstanding overall and under each of the other three technical evaluation factors showed its proposal was superior to EG&G's. Specifically, the contracting officer found under the technical approach factor that JJMA's sample tasks "demonstrated first-hand knowledge of processes required, comprehensive labor analyses, and detailed procedures," such that JJMA would "produce exceptional work plans." The contracting officer also determined that JJMA's management plan was advantageous because it delineated the lines of responsibility and authority, which would "facilitate timely completion of tasks" and "allow necessary flexibility" and "rigorous project control"; that JJMA's "exceptional staffing plan," which proposes current, knowledgeable employees "with whom JJMA has contingency hire agreements," would "minimize start-up delays and associated costs"; and that JJMA's recruiting program is "well-substantiated by previous successful" efforts on contracts similar to the current requirement. In addition, the contracting officer highlighted JJMA's exceptional "corporate experience in performing same or similar work," which would "minimize costs and delays in task

completion," since "JJMA will not need to expend extensive time in analyzing requirements, devising work plans, and developing staffing requirements." Finally, the contracting officer viewed JJMA's proposed key personnel who were "currently performing similar tasks under a number of Navy contracts" as highly beneficial since the staff's technical knowledge and experience "would bring efficiency and timeliness in the completion of the tasks under this contract," thus reducing the need for government guidance during contract performance. The contracting officer then specifically concluded that JJMA's higher proposed cost was justified by its proposal's technical advantages.

We see nothing unreasonable with this conclusion or with the adequacy of the documentation supporting it.

Price Premium

EG&G argues that the RFP's price premium clause permitted paying a substantial price premium (such as JJMA's 20.15 percent higher price) only where the higher-priced proposal is rated outstanding and the lower-priced proposal is rated acceptable, not, as here, where the lower-priced proposal is rated better. This argument is without merit. As indicated, the only guidance in the RFP as to the permissible tradeoff was the statement that up to a 35 percent price premium could be paid for a technically superior proposal. JJMA's 20.15 percent premium fell well within this limit. Nothing in the RFP provided that tradeoffs of certain cost differences would be made only where there was a certain degree of technical superiority.²

Corporate Experience

EG&G argues that, in making the tradeoff, the contracting officer repeatedly considered corporate experience under all the technical factors (rather than only under the least important corporate experience factor), thereby improperly elevating it to the most important factor, contrary to the announced evaluation scheme.³

²The protester also maintains that its interpretation of the clause is supported by the source selection plan. However, allegations of deviations from a source selection plan do not constitute a basis for questioning the validity of an award selection. See National Steel & Shipbuilding Co., B-250305.2, Mar. 23, 1993, 93-1 CPD ¶ 260.

³EG&G asserts that the agency's overemphasis of corporate experience resulted in deemphasizing its superior proposed key personnel in the tradeoff. However, there is no basis for assuming that EG&G's key personnel were considered superior to JJMA's in any significant way. Of the 29 resumes EG&G submitted, 9 were rated

The contracting officer gave corporate experience no undue weight in the tradeoff. Rather, corporate experience was an inherent element of some of the other factors that went into the tradeoff decision. For example, under the management plan (staffing plan) factor, offerors' proposed recruiting/hiring programs were to be supported with "examples of previous successful recruiting/hiring/staffing efforts on contract(s) of a similar magnitude." The contracting officer regarded JJMA's proposal advantageous under this factor on the basis that its proposed recruiting/hiring/staffing program was well substantiated by previous similar efforts. Thus, while corporate experience arguably was considered, in a sense, under this factor, it was considered in a manner consistent with the factor as described in the RFP. EG&G cites the key personnel factor as one under which corporate experience was considered. The record shows otherwise. This factor provided that the evaluation of personnel would be based on the extent to which their resumes showed they met or exceeded the educational and experience requirements in the RFP. The contracting officer's comments on JJMA's advantage in this area--e.g., "JJMA's highly qualified personnel" were timely and efficient, and its proposed "subcontractors are currently performing similar tasks under a number of Navy contracts")--clearly were properly focused on the individual employees' qualifications, not on JJMA's corporate experience.

Uncompensated Overtime

The protester maintains that the contracting officer improperly considered its proposal of uncompensated overtime (UCOT) negatively in the tradeoff, since this was not a stated evaluation factor. However, while UCOT may not have been identified as a separate evaluation factor, in allowing offerors to propose UCOT the RFP required proposals to identify "any hours against which the UCOT rate is applied" and required the use of accounting practices "consistent with [the offeror's] cost accounting practices" to estimate UCOT overtime. The RFP further warned that "[p]roposals which include unrealistically low rates, or which do not otherwise demonstrate cost realism, will be considered in a risk assessment and evaluated for award in accordance with that assessment." We think these statements in the RFP were sufficient to put offerors on notice that any proposal which included uncompensated overtime would be subject to scrutiny on that basis. There thus is

outstanding, 18 better, and 2 acceptable. Five of JJMA's resumes were rated outstanding, 20 better, and 4 acceptable. The evaluators did not consider this difference to warrant EG&G's proposal receiving a higher rating than JJMA under the key personnel factor, and there is no reason to believe the contracting officer would come to a different conclusion. Thus, the matter of the corporate experience factor aside, there simply is no basis for concluding that the contracting officer underemphasized EG&G's proposed key personnel in the tradeoff decision.

no basis for objecting to the contracting officer's considering UCOT in the tradeoff decision.

Error

EG&G maintains that the tradeoff erroneously attributed an EG&G proposal strength--its proposed use of lower level, lower cost personnel who could perform the required work most efficiently--to JJMA. However, the agency found that JJMA proposed "a work force which will most efficiently support the government requirement by ensuring the highest quality work effort within established delivery schedules." In other words, the record shows that the efficient staffing of contracts was a strength in both offerors' proposals. Thus, there is no basis for concluding that the tradeoff was erroneous in this regard.

In conclusion, since the contracting officer identified specific strengths in JJMA's proposal as justifying JJMA's higher cost, and the technical factors were more important than cost, we think the contracting officer reasonably concluded that the technical superiority of JJMA's proposal warranted paying JJMA's higher price, and that JJMA's proposal offered the best value to the government.

The protest is denied.

Robert P. Murphy
General Counsel